



**LEGISLATION AND PUBLIC POLICY
COMMITTEE (LPPC)
MEETING NOTICE/AGENDA**

Posted at www.scdd.ca.gov

DATE: June 13, 2013

TIME: 10:00 a.m. – 3:00 p.m.

LOCATION: State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95811
916/322-8481

Teleconference Sites:

Harbor Regional Center
21231 Hawthorne Blvd, Room B4
Torrance, CA 90503

Area Board 7
2580 North First Street, Suite 240
San Jose, CA 95131

Pursuant to Government Code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in the meeting, should contact Michael Brett at 916/322-8481 or michael.brett@scdd.ca.gov by 5p on June 6, 2013.

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1. CALL TO ORDER	R. Ceragioli	
2. ESTABLISHMENT OF QUORUM	R. Ceragioli	
3. WELCOME AND INTRODUCTIONS	R. Ceragioli	
4. APPROVAL OF 4/4 and 5/13/13 MINUTES	R. Ceragioli	3

5. PUBLIC COMMENTS

*This item is for members of the public only to provide comments and/or present information to the Committee on matters **not** on the agenda. Each person will be afforded up to three minutes to speak. Written requests, if any, will be considered first. The Committee will provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.*

6. LEGISLATIVE ISSUES

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7. FEDERAL BUDGET/LEGISLATIVE REPORT

M. Polit 46

8. MEETING SCHEDULE

R. Ceragioli

9. ADJOURNMENT

R. Ceragioli

DRAFT
Legislative & Public Policy Committee (LPPC) Minutes
April 4, 2013

Members Present

Ray Ceragioli, Chair
Jennifer Allen
Tho Vinh Banh
Connie Lapin
April Lopez
David Forderer

Members Absent

David Mulvaney
Barbara Wheeler
Lisa Davidson
Dan Boomer

Others Present

Karim Alipourfard
Mark Polit
Bob Phillips
Roberta Newton
Darin Lounds

1. CALL TO ORDER

Ray Ceragioli, Chairperson, called the meeting to order at 10:37 AM.

2. ESTABLISHMENT OF A QUORUM

A quorum was established.

3. INTRODUCTIONS AND ANNOUNCEMENTS

Members introduced themselves and announcements were made.

4. APPROVAL OF MARCH 12, 2013 MINUTES

It was moved, seconded (Lopez/Allen), and carried unanimously to approve the LPPC minutes, with the following changes: Add attendees Roberta Newton and Mary Agnes Nolan. as written. Indicate that Lapin and Lopez moved and seconded for support of SB 126 and Lopez and Banh moved and seconded for support of SB 555. Correct bill number of SB 555 from SB 155.

5. PUBLIC COMMENTS

Connie Lapin discussed that April is Autism Awareness Month. However, the Autism Self-Advocacy Network has asked that people call it Autism

Acceptance Month. This is in response to the emphasis on cure in the autism community. The self-advocates are saying they don't need to be changed, they need to be accepted.

6. LEGISLATIVE ISSUES

A. State Legislative Issues

i. **Equity and Diversity Legislation** was discussed at length. It was discussed that the state's goals for equity should not be achieved by decreasing services to people who have adequate service, so that everyone is inadequately served. Instead equity should be achieved by increasing access to services for those who are underserved. The IPP process should be administered fairly and equitably for all people. The committee further discussed the importance of taking advantage of this opportunity to address long standing inequities in services.

AB 1232 (Perez) would require the Department to consider outcomes based measures on cultural and linguistic competency of services when choosing a quality assessment instrument. Lapin moved Forderer seconded to support AB 1232. Motion adopted unanimously

SB 319 (Perez) would enhance regional center data collection, and their publication, on disparities in service delivery between regional center ethnic populations. Lapin moved and Forderer seconded to support SB 319, and to recommend amendments to emphasize the "fair and equitable access to services, pursuant to the IPP process." Motion adopted 5 yes, 0 no, 1 abstain.

SB 321 (Perez) would direct the Department to address issues of linguist and cultural competency of services and inequitable distribution of services in the regional centers' performance contracts. Lapin moved and Forderer seconded to support SB 321 and to recommend an amendment, if necessary, to require that regional center performance contracts be posted on the Department's website. The motion was adopted 5 yes, 0 no, 1 abstain.

SB 555 (Correa) addresses the linguistic and cultural competency of the IPP process and of services addressed by the IPP. The LPPC previously voted to recommend Council support. Tho Vinh Banh reviewed recent amendments to the bill. Lopez moved and Allen seconded to continue support of SB 555, as amended. Motion adopted unanimously.

ii. Accessible housing legislation SB 1 (Steinberg) and SB 391 (DeSaulnier) was explained by Darin Lounds, director of the East Bay Housing Consortium. It was discussed that both bills are critical for funding affordable housing for many low income populations, including people with developmental disabilities. However, these bills also present an opportunity to increase the availability of affordable AND accessible housing units. Forderer moved and Lapin seconded to support SB 1 and SB 391, and to work with the DD housing coalition to have these bills amended to include provisions for accessible housing. The motion was adopted 5 yes, 0 no, 1 abstain.

iii. Community Imperative Declaration was discussed at length. Lapin clarified that the Lanterman Coalition wishes to have members re-assert their support of the Community Imperative, to re-affirm their common values with respect to the right to community living. Chairman Ceragioli discussing the benefits of developmental centers and the continued need for some people, and the benefits of Fairview for his son. He emphasized that endorsement of the Declaration would mean that nobody should be served in developmental centers. Newton stated that the Declaration is consistent with the Lanterman Act. Banh emphasized that the Community Imperative is a statement of the fundamental right of all people with developmental disabilities to community living. Banh moved and Lapin seconded to endorse the Community Imperative Declaration. Motion was adopted 4 yes, 1 no, 1 abstain.

iv. Developmental Center Closure Plan - The Lanterman coalition is asking its members if they can support requiring the Department to create a plan for the closure of all developmental centers, with the exception of the forensic unit at Porterville, by a certain date. Chairman Ceragioli emphasized that more legislation is not needed to close DCs because statute already sets requirements for closure process, the IPP used in transition, and other factors. Also, statute has been recently amended with the moratorium on DC placements and evaluation of DC residents for community placement. The combination of new law and the increasing per person cost as DCs downsize will lead to the eventual closure of the facilities. It was discussed that there are benefits to an orderly plan for closure, since all agreed that closure of developmental centers are inevitable, except for the forensic unit at Porterville. The committee discussed that it is not enough to discuss closure, there needs to be development of appropriate community resources for people leaving developmental centers and that a deadline for closure was not appropriate

given the uncertainty and delays in developing community resources for people with complex needs. Lapin moved and Allen seconded to support the concept of the Department developing a plan, with stakeholder input, for the gradual and steady closure of all developmental centers in as timely a manner as possible, while at the same time developing an array of quality community services. The plan should include working with local communities so they will be welcoming to former developmental center residents and not hostile. The motion was adopted 4 yes, 1 no, 1 abstain.

v. Update on Bills LPPC Acted On. This agenda item was not discussed.

vi. SB 577 (Pavley) Employment. Polit reported that the Council has been asked to co-sponsor this legislation that is still being developed. The Committee expressed concerns that the Employment Preparation service include some quality control element and specify who is qualified to provide the services (such as CARF certified agencies). There was also concern that 75 hours a quarter was not adequate for the service, and that people requiring day programs would not be able to participate. Forderer emphasized that supporting people to find work is essential. The Committee agreed that if we co-sponsor, that the Council be in a position to help develop the legislation. Forderer moved and Allen seconded to co-sponsor SB 577. Motion adopted unanimously.

vii. Other Legislation This agenda item was not discussed.

B. State Budget Update

i. Pending Hearings. This agenda item was not discussed.

ii. IHSS - Settlement of Oster Lawsuit. This agenda item was not discussed.

C. SCDD Legislative Platform Review. This agenda item was not discussed.

7. FEDERAL BUDGET/LEGISLATIVE REPORT

A. Fair Labor Standards Act. This agenda item was not discussed.

B. Federal Budget Update. Ceragioli moved and Lopez seconded to oppose applying a Chained CPI to social security benefits. Motion adopted

unanimously. The committee briefly discussed proposals for per capita caps to Medicaid. Ceragioli moved and Forderer seconded to oppose any cuts to federal medical programs. The motion was adopted unanimously.

8. MEETING SCHEDULE

Due to potential conflicts with Council calendar, the next meeting will be not be held on May 16. The next meeting will be held on Monday, May 13, from 10:00 AM to 3:00 PM. Future meetings will start at 10AM to give the committee more time. The June meeting is tentatively scheduled for June 13.

9. ADJOURNMENT

The meeting was adjourned at 3:07 PM.

DRAFT
Legislative & Public Policy Committee (LPPC) Minutes
May 13, 2013

Members Present

Ray Ceragioli, Chair
Jennifer Allen
Connie Lapin
April Lopez
Lisa Davidson

Members Absent

David Mulvaney
Barbara Wheeler
Dan Boomer
Tho Vinh Banh
David Forderer

Others Present

Mark Polit
Bob Phillips
Anastasia Bacigalupo
Jim Shorter, GGRC
Daniel Savino, ARCA
Barry Benda, Lifehouse

1. CALL TO ORDER

Ray Ceragioli, Chairperson, called the meeting to order at 10:37 AM.

2. ESTABLISHMENT OF A QUORUM

A quorum was NOT established.

3. INTRODUCTIONS AND ANNOUNCEMENTS

Members introduced themselves and announcements were made.

4. APPROVAL OF APRIL 4, 2013 MINUTES

Minutes were reviewed. But not voted on due to a lack of a quorum.

5. PUBLIC COMMENTS

It was discussed that regional centers have public meetings on equity of the distribution of services. These meetings are often not well attended. Area Boards could make an effort to get the word out in ways that people understand the issue and why it is important.

6. LEGISLATIVE ISSUES

A. State Budget Update

Mark Polit updated the Committee on the state budget.

B. State Legislative Issues

i. Update on Sponsored Bills. Mark Polit reported that all three sponsored bills were placed on the Appropriations Suspense File. AB 1041, Employment First, received an analysis of unknown costs. Staff is working with Appropriations staff to address cost concerns and meeting with key legislative offices. SB 577, Employment Pilot, may be amended to remove the incentive section until the question of federal financial participation can be resolved. Alternatively, the bill could be withdrawn from consideration this year to address concerns about the bill. That would allow us to work on the bill until it is brought up for consideration again in January. SB 163, regional center financial responsibility for co-pays and deductibles, has significant costs assigned in the analysis. However, we are claiming that the bill is consistent with existing law, and therefore cost neutral. The same issues that SB 163 is addressing are also being addressed in the budget process. Advocates are hoping that the Administration will address those issues in the May Revision.

ii. AB 620 (Buchanan), Safety Plan. Mark Polit explained that the bill is moving to the Senate. Polit met with the author and expressed LPPC concerns. The author is considering amendments that would clarify that the safety plan required by the bill would be part of the already required plan for the consumer in those programs. This would eliminate the creation of another plan, and the composition of the planning teams would already be addressed in statute. These amendments will be considered at the next LPPC meeting.

iii. SB 579 (Berryhill), Quality Oversight. This bill is sponsored by ARCA. The committee invited representatives from ARCA to present on the legislation. Jim Shorter of GGRC, Daniel Savino of ARCA, and Barry Benda of Lifehous presented. The bill would create pilot projects at 3-5 regional centers to change the way quality oversight of services is managed.

Barry Benda used to work for GGRC and now works for a vendor. He sees the multiple layers of monitoring that vendors experience, often overlapping, and often not useful. He mentioned a group home that started

a vegetable garden, and were told by licensing that they could have the garden, but they couldn't eat the food they grew.

The state and stakeholders have discussed this for at least 15 years, but there has been no significant change. At GGRC, a group of vendors brought in several people with quality oversight expertise, including Sherry Beamer, Ellen Goldblatt, and Eric Zigman. They worked with GGRC and charted the various levels of oversight and identified overlaps.

Jim Shorter commented that quality oversight of licensed facilities were not initially added to regional center responsibilities because the regional centers were still developing. Now they are developed, and they can take on more responsibility. Regional center clients are only 6% of the Community Care Licensing caseload; thus their focus is not on people with I/DD> Whoever monitors should understand our population.

Connie commented that during the system reform effort, someone commented that it is cheaper to have checklists than to focus on outcomes. But we need outcomes based oversight, like this bill is proposing. We also want an independent entity that understands our system. Who should that be? Regional centers? Area Boards? The sponsors indicated an openness to who should have that responsibility.

Lisa Davidson indicated that quality oversight information should be public. Jim Shorter stated that it should be boiled down so the information is accessible. It was discussed that consumers and families should participate in quality evaluation. And they need to be involved in the design of these pilots.

The LPPC will discuss this bill further at the next meeting.

iv. Update on Bills with Council Position - The Committee was updated on the status of the legislation. Connie updated the Committee on SB 468, Self-Determination, which got a price tag of \$6M in The Appropriations analysis. She mentioned that ARCA is "Support with Amendments". The sponsors will entertain amendments if they get past Appropriations. She asked that SCDD express it's support to Appropriations.

C. SCDD Legislative Platform Review. This agenda item was deferred to the June meeting.

7. FEDERAL BUDGET/LEGISLATIVE REPORT

A. Fair Labor Standards Act. There was a lively discussion of the proposed Department of Labor rule change on overtime hours that would affect home based attendant services, such as supported living and IHSS. Connie Lapin expressed concerns that the requirement to pay overtime would not be paid for in rates, and force changes in schedules that would be a hardship for the people served, family members and workers. The decision of issuing the rules may be immanent.

It was discussed that the Committee would track the progress of this issue and try to ensure that both the rights of people served and workers are addressed in any changes.

B. Federal Budget Update. This agenda item was not discussed

C. TEAM Act. This agenda item was not discussed.

8. MEETING SCHEDULE

The June meeting is scheduled for June 13.

9. ADJOURNMENT

The meeting was adjourned at 2:47 PM.

2011-12 LEGISLATIVE and POLICY PLATFORM



The State Council on Developmental Disabilities (Council) is established by state (Lanterman Act at Welfare and Institutions Code, sections 4520) and federal law (Developmental Disabilities and Bill of Rights Act) to ensure that individuals with developmental disabilities and their families participate in the planning, design and receipt of the services and supports they need which allow increased independence, productivity, inclusion and self-determination. To that end, the Council develops and implements goals, objectives, strategies designed to improve and enhance the availability and quality of services and supports to individuals with developmental disabilities and their families.

The Council is comprised of 31 members appointed by the Governor, including individuals with disabilities, their families, federally funded partners and state agencies.

In addition to headquarters in Sacramento, the Council supports 13 area boards that provide services to individuals with developmental disabilities and their families including, but not limited to, advocacy assistance, training, monitoring and public information. By providing these services, area boards ensure that appropriate laws, regulations and policies pertaining to the rights of individuals are observed and protected. Each board participates in the development and implementation of the Council's goals and objectives.

The Council is active in promoting and responding to policy developments and changes that affect people with developmental

disabilities. This document conveys the Council's position on major policy issues that impact individuals with developmental disabilities and their families.

CONSUMER/FAMILY DIRECTED OPTIONS

Individuals with developmental disabilities and their families are best suited to identify and understand their unique needs and how best to address those needs. Options for self-determination/individual choice budgeting that provide resources for consumers and families to use in securing the services and supports that best meet their needs and reduce reliance on public social services must be developed and supported.

EMPLOYMENT

Integrated, competitive employment is the priority outcome for working age individuals with developmental disabilities. Strategies must be identified and pursued to assist individuals to achieve this goal.

HOUSING

Increase and enhance community integrated living options for individuals with developmental disabilities through access to housing subsidy programs and neighborhood education to reduced discrimination. Affordable, accessible, and sustained housing options must be continually developed.

HEALTH CARE

California has an obligation to assure that individuals with disabilities being transitioned into MediCal managed care have access to

plain language information and supports to make informed decisions about their health care options.

California must support individuals with developmental disabilities with co-existing health conditions that require routine preventative care, as well as mental health treatment and attention to women's health issues.

EDUCATION

The federal Individuals with Disabilities Education Act (IDEA) requires children with disabilities be provided with free appropriate public education to prepare them for advanced education, employment, and independent living. IDEA states to the "maximum extent possible" students with disabilities should be educated alongside their non-disabled peers. School districts/educational authorities need to be held accountable for implementing the letter and the intent of IDEA.

SELF-ADVOCACY

Individuals with developmental disabilities must be provided the opportunity and support to assume their rightful leadership in the system and society. Enhanced training, the use of plain language materials and inclusion in public-policy making activities must be developed and supported.

INCLUSION

Individuals with developmental disabilities must have access to community opportunities such as recreation, education, and socialization with their peers without disabilities.

TRANSPORTATION

Access to transportation is essential to the education, employment and inclusion of individuals with disabilities. Individuals with developmental disabilities must be a part of transportation planning and policymaking to assure their needs and perspectives are heard and addressed. Mobility training must be a standard program among public transportation providers to increase the use of public transportation and reduce reliance on more costly segregated systems.

VICTIMS OF CRIME

Individuals with developmental disabilities experience a greater rate of victimization and lower rates of prosecution for crimes against them than does the general public. The same level of due process protections must to be provided to all people. Individuals with disabilities need to be trained and supported in how to avoid becoming victims of crime and to understand how their participation in identification and prosecution can impact outcomes.

QUALITY OF SERVICES AND SUPPORTS

The financial commitment from the State of California must come with assurances that public monies are used to achieve desired outcomes for individuals with developmental disabilities and their families. Outcomes and satisfaction must be measured, and that information used to pursue individual and systemic change.

CONTACT INFORMATION

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State of California HEALTH AND HUMAN SERVICES AGENCY

FOR IMMEDIATE
RELEASE

Contact: (916) 654-3304

May 22, 2013

California Health and Human Services Secretary Diana S. Dooley to Establish Task Force for State Developmental Centers

Sacramento – California Health and Human Services Agency Secretary Diana S. Dooley today announced she will establish a Task Force on the Future of the Developmental Centers. The Task Force will include a cross-section of consumers, family members, regional centers, consumer advocates, community service providers, organized labor, and the Department of Developmental Services.

The Task Force will be charged to develop a Master Plan that addresses the service needs of all developmental center residents, the fiscal and budget implications of the declining population, the aging infrastructure, staffing, and resource constraints, the availability of community resources to meet the specialized needs of residents now living in the developmental centers, a timeline for future closures and the statutory and regulatory changes that may be needed to ensure the delivery of cost-effective, integrated, quality services for this special population.

The challenges facing the residents of the state developmental centers are not new and not easily solved. Until the landmark Lanterman Developmental Disabilities Services Act was adopted in 1969 to establish community-based alternatives, the only care option available to families of children with developmental and intellectual disabilities was state-operated hospitals. Since then, federal and state legal mandates have contributed to the deinstitutionalization of more than 10,000 former developmental center residents and made significant investments in community-based resources. Today, California operates four large, old developmental centers and one small community facility serving a total of 1,510 residents with a budget of \$545 million.

Last year, this Administration sponsored legislation, which placed a moratorium on new admissions to the developmental centers, required all residents to be assessed to determine if community services are available to meet their needs, and prioritized resources to reduce state and local institutionalization. As the combination of this admission moratorium, legal mandates, and investments in community-based services are decreasing the developmental center population by approximately 200 residents per year, continued operation of four large institutions is increasingly inefficient and cost prohibitive.

Secretary Dooley said in announcing the establishment of the Task Force, "The health and safety of citizens served by the developmental disabilities service system is a high priority for California therefore we must provide services to people with developmental and intellectual disabilities in the most integrated setting available to meet their needs and to avoid unnecessary institutionalization."

The Secretary will make appointments to the task force by June 1, 2013 and will convene the first meeting by June 15. The Task Force will complete its work by November 15 and produce a written Master Plan that addresses:

1. The effective and efficient delivery of integrated services to meet the specialty needs of developmental center residents; and
2. The fiscal implications of developmental center operations, including the cost of resident care and services, maintenance of aging infrastructure, and utilization of existing resources.

4300 Department of Developmental Services
Recommended Action for Sonoma Developmental Center (SDC) Proposals – page 12

1. **Approve** the requested funding to backfill the lost federal funding associated with the loss of certification for four units at SDC.
2. **Approve** the requested funds for the Independent Consultative Review Expert (ICRE) contract associated with the state's Program Improvement Plan.
3. **Reject** the request for authorization to expend up to \$10 million on costs, not yet identified, that may be associated with the results of the review.
4. **Require**, in uncodified trailer bill language, that the administration submit a master plan for the future of developmental centers, which it has committed to producing by November 15, 2013, to the appropriate fiscal and policy committees of the Legislature, by that same date. In the preparation of this plan, the administration shall consult with a cross-section of consumers, family members, regional centers, consumer advocates, community service providers, organized labor, the Department of Developmental Services, and representatives of the Legislature.

Further, require the administration to report, by January 10, 2014, to the appropriate fiscal and policy committees of the Legislature regarding the administration's resulting plans to address the service needs of all developmental center (DC) residents, the fiscal and budget implications of the declining DC population, along with the aging infrastructure, staffing, and resource constraints, the availability of community resources to meet the specialized needs of residents now living in the DCs, a timeline for future closures, and the statutory and regulatory changes that may be needed to ensure the delivery of cost-effective, integrated, quality services for this population.



State Council on Developmental Disabilities

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STATE OF CALIFORNIA

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2013 SPONSORED LEGISLATION - May 31, 2013

In Senate. AB 1041 (Chesbro) - SPONSOR. This legislation would make it the policy of the state that *opportunities for integrated competitive employment shall be given the highest priority for working age individuals with developmental disabilities, regardless of the severity of their disabilities.* Co-sponsors are the Arc of California and CDSA.

In Appropriations – Two Year Bill. SB 577 (Pavley) – CO-SPONSOR. The bill would pilot two innovations aimed at increasing the availability of employment for people with developmental disabilities: A service category for employment preparation; and an incentive system to encourage employment support providers to assist people to obtain integrated competitive employment. Co-sponsor is CDSA.

Held in Appropriations. SB 163 (Hueso) – CO-SPONSOR. This bill would require a regional center to pay any applicable copayment, coinsurance, and deductible imposed by a health insurance policy or health care service plan for a service or support required by a consumer's IPP or IFSP, as specified. This bill would prohibit a regional center from imposing on the consumer or his or her family a share of cost for, or income requirements relating to, those payments. Co-sponsors are Autism Speaks and the Alliance of California Autism Organizations.

2013 LEGISLATIVE SUPPORT POSITIONS

Self-Determination

In Assembly. SB 468 (Emmerson-Beall) – Would expand the Self-Determination Pilots by establishing a statewide Self-Determination program, giving regional center clients control over their own service budget. Self-Determination is a civil rights issue. It gives people the basic human dignity and tools to take responsibility for their lives.

Equity and Diversity

In Senate. AB 1232 (Perez) – Would require DDS to consider outcomes based measures on cultural and linguistic competency of services when choosing a quality assessment instrument.

"The Council advocates, promotes & implements policies and practices that achieve self-determination, independence, productivity & inclusion in all aspects of community life for Californians with developmental disabilities and their families."

Held in Appropriations. SB 319 (Price) – Regional center data collection and publication on disparities in service delivery between regional center ethnic populations.

Held in Appropriations. SB 321 (Price) – Direct DDS to address inequitable distribution of services in the regional centers’ performance contracts.

In Assembly. SB 555 (Correa) – Addresses the linguistic and cultural competency of the IPP process and of services addressed by the IPP.

Abuse and Neglect

In Assembly. SB 651 (Pavley and Leno) – Would require that a suspected victim of sexual assault at developmental centers and state hospitals be provided a medical evidentiary exam performed at an appropriate external facility. Failure to report specified assaults, deaths and injuries to external law enforcement would result in a Class B Citation.

Held in Appropriations. AB 961 (Levine) – Would require that certain licensing citations at developmental centers and state hospitals be redacted only for name and personal identifying information. The bill would also require, in these facilities, that Department of Public Health complete its investigation of death, serious injury and other incidents within specified times. Misconduct of licensed staff in these facilities be reported to the licensing agency.

In Senate. AB 602 (Yamada) – Would require the Commission on Peace Officer Standards and Training to establish and keep updated a continuing education classroom training on law enforcement intervention with mentally disabled persons. Require law enforcement personnel with jurisdiction over state hospitals and developmental centers receive this training. Require these facilities to immediately report incidents, such as death and sexual assault, to local law enforcement and coordinate its investigations with them.

Other Legislation

Both in Assembly. SB 1 (Steinberg) and SB 391 (DeSaulnier) – Both bills are critical for funding affordable housing for low income populations, including people with developmental disabilities. These bills also present an opportunity to increase the availability of affordable AND accessible housing units. SCDD will work with the DD housing coalition to have these bills amended to include provisions for accessible housing.

In Assembly. SB 126 (Steinberg) – Would extend the sunset of SB 946, the autism treatment insurance mandate, to 2019.



SB 579 (Berryhill)

Developmental Disabilities Services System Oversight Efficiency and Quality Enhancement Act

Background:

The Lanterman Act provides for quality state-funded services and supports for individuals with developmental disabilities (clients) in California. Evaluation of the services and supports that clients receive from both Regional Centers and service providers is a critical component of this service system. Those services are designed to assist those individuals and their families to be integrated, independent members of their communities.

Currently, three state entities are charged with monitoring and maintaining those services: the Department of Developmental Services (and the 21 Regional Centers); the Department of Social Services Community Care Licensing; and the Department of Public Health Licensing.

Issue:

This duplication wastes state dollars and resources by having multiple people and agencies looking at the same criteria, sometimes from contradictory review values. Each agency applies different and often contradictory standards. Service providers have their costs and staff hours increased by this duplication. And clients' services are hindered, as the development of innovative, cost-effective services and best practices is impeded by outdated licensing categories and regulations. It is not effective at ensuring, monitoring, or improving quality of services.

What This Bill Does:

SB 579 creates a five-year Oversight Efficiency and Quality Enhancement Model pilot project that will place authority for service quality at DDS and three pilot Regional Centers – the agencies with expertise in serving people with developmental disabilities. It updates standards used in service provider reviews to address individual outcomes such as community inclusion, empowerment, and choice, as well as health and safety.

To strengthen and refine the project, local Advisory Committees and statewide Stakeholder Organizations – including consumers, family members, service providers, and advocates – will provide input and feedback in its design, implementation, and evaluation. There is also a data collection component to gather reliable, valid, accessible data focused on the quality enhancements desired over time.

This bill is consistent with efforts to move licensing responsibilities closer to the responsible state agency providing the funding. Its unitary authority approach has been successfully adopted in statute for certain services to persons with developmental disabilities (e.g., supported living services).

Support

Association of Regional Center Agencies (sponsor)

The Arc and United Cerebral Palsy; Cal-TASH; Lifehouse; Partnerships With Industry.

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Quality and Regulatory Reviews

The two primary types of service that those with developmental disabilities receive through the system are **residential** and **day program services**. Below is a matrix of these different types of services with reviewing entities listed below each type. **Regional centers** also providers of services to consumers through case management, consultation and other supports. This matrix demonstrates the duplication of reviews mandated through regulation and law.

Vertical Columns indicate the types of service categories for provider agencies serving individuals with developmental disabilities

Horizontal rows indicate the various entities conducting licensing and quality reviews.

Residential – Community Care Licensing	Residential – Dept. of Public Health Licensing	Residential – Family Home Agency	Residential – Supported Living Services	Day Service – Licensed	Day Service – Non Licensed	Regional Center
Regional Center facility monitors quarterly	Regional Center facility monitors quarterly	Regional Center facility monitors quarterly	Regional Center facility monitors quarterly			
Regional Center unannounced visits	Regional Center unannounced visits	Regional Center unannounced visits	Regional Center unannounced visits			
Regional Center Quality Assurance		Regional Center Quality Assurance	Regional Center Quality Assurance	Regional Center Quality Assurance	Regional Center Quality Assurance	
Regional Center Quality			Regional Center	Regional Center	Regional Center	

Management System			Quality Management System	Quality Management System	Quality Management System	
Area Board Quality Assessment Project	Area Board Quality Assessment Project	Area Board Quality Assessment Project	Area Board Quality Assessment Project	Area Board Quality Assessment Project	Area Board Quality Assessment Project	
All reporting requirements related to HCBS		All reporting requirements related to HCBS	All reporting requirements related to HCBS	All reporting requirements related to HCBS	All reporting requirements related to HCBS	
Potential self audit and/or audit by larger organization	Potential self audit and/or audit by larger organization	Potential self audit and/or audit by larger organization	Potential self audit and/or audit by larger organization	Potential self audit and/or audit by larger organization	Potential self audit and/or audit by larger organization	
Independent Financial Audit if non-profit	Independent Financial Audit if non-profit	Independent Financial Audit (regs require agency to be non-profit)	Independent Financial Audit if non-profit	Independent Financial Audit if non-profit	Independent Financial Audit if non-profit	
Fire Marshal	Fire Marshal		Fire Marshal	Fire Marshal		

HUD – 3 different reviews	HUD – 3 different reviews							
			CARF (optional)	CARF	CARF			
Community Care Licensing				Community Care Licensing				
		Department of Developmental Services Audit				Department of Developmental Services Audit		
					Department of Rehabilitation for 1 st three years			
	Department of Public Health							
				Program Design requirement for self-evaluation	Program Design requirement for self-evaluation			
Reporting for grants/funding proposals ie SCDD,	Reporting for grants/funding proposals ie SCDD,	Reporting for grants/funding	Reporting for grants/funding	Reporting for grants/funding	Reporting for grants/funding	Reporting for grants/funding	Reporting for grants/funding	

foundations	foundations	proposals ie SCDD, foundations	proposals ie SCDD, foundations	proposals ie SCDD, foundations	proposals ie SCDD, foundations	
Workman's Comp audit as required	Workman's Comp audit as required	Workman's Comp audit as required	Workman's Comp audit as required	Workman's Comp audit as required	Workman's Comp audit as required	Workman's Comp audit as required
						Performance contract audit
						Bureau of State Audits
						DDS Reports e.g. (SOAR)

Note: When a program is providing services to individuals from different regional centers, separate reporting is needed for each regional center involved.

Developmental Services Quality Review Consolidation Project Reduces Duplication of Quality Review Requirements for Providers of Services, Preserves State Funds and Simultaneously Improves the Lives of People with Developmental Disabilities in California

California has, through the Lanterman Act (Welfare & Institutions Code §§ 4500 et seq), created a service system for people with developmental disabilities intended to provide services and supports to enable these individuals to live independent, productive and normal lives in their home communities. As part of the desire to ensure quality services are being provided, systems were put in place to monitor the delivery of these services. As the entire system has grown, so has the complexity of the quality review process. At present, many different entities review the quality of various programs. In many situations, several of these entities monitor the same service provider. With the number and complexity of the review systems, there is overlapping, duplication and in some instances, contradictory standards in measuring quality. This leaves the individuals being served, service providers, regional center staff and others often in situations that are non-productive and take away from the resources that should be used to provide even better services.

The California Department of Developmental Services (DDS), together with the 21 Regional Centers, has responsibility for a variety of monitoring requirements of thousands of service providers that support the 270,000 people who receive services through the regional center system. A large number of the service providers provide group or individual living and day activities or work services, and often provide a combination of supports. When services are grouped in a building, regulations require that services be licensed and monitored as well by Department of Social Services Community Care Licensing (CCL). Some living arrangements are licensed and monitored by the Department of Public Health. Many other entities also have monitoring responsibilities. As a result service providers must interface with a variety of requirements, licensures, accreditations and additional funding streams depending on the combination of services they offer. While review is welcomed in the ongoing pursuit of quality service, duplicating review efforts does not benefit people with developmental disabilities and wastes valuable resources.

In these fiscally challenging times people with developmental disabilities and their families want to ensure that state funding resources are dedicated to providing the services they need and are not wasted in duplicative and process oriented monitoring efforts. Service providers and regional centers share this desire. Because of this, the following unification of key quality assurance functions and simultaneous refocusing of the quality assurance system is proposed:

- Place under the DDS all licensing, certification and quality assurance functions regarding the health, welfare and safety of people with developmental disabilities. The quality assurance and improvement tasks would be held by DDS with some tasks delegated to regional centers.
- Expand the focus of quality standards to address individual outcomes for people served such as community inclusion, empowerment and choice as well as health and safety.
- Shift the focus of quality efforts to a service enhancement model that encourages and rewards service provider improvements.
- Department of Social Services will maintain enforcement responsibilities including fingerprinting processing and legally representing the State of California in the most serious of incidents.

This proposal will save limited state general fund dollars, simplify the lives of service providers and enhance the effectiveness of quality assurance efforts – thus it will improve the lives of people with developmental disabilities in California.

The grid that follows provides an overview of the duplication of monitoring functions with a focus on licensed facilities. Attached is a reference document that lists the statutes and regulations in place for the complex system of service provision for people with developmental disabilities in California.

Note: A key follows the table that describes the regulations and statutes referenced in the material.

Developmental Services System – Lanterman Act (WIC), California Regulations Title 17	Community Care Licensing System and Health Care Licensing -- Health and Safety Code, California Regulation Title 22, Code of Federal Regulation	Other Entities For Employment Services -Department of Rehabilitation; For affordable housing - HUD
Needs Assessment Purchase of service is regulated by individual consumer need/choice for self sufficiency (WIC 4648.1); Regional centers vary in practice as to whether overall needs information available	Requires Needs and Services Plan for each person entering the facility (T22 80068.2, 85068.2)	HUD Development requires need assessment. Department of Rehabilitation needs assessments are completed through District Offices. (Rehabilitation Act of 1973)
Vendor Application Regional center system focuses on service/program design elements. There are a variety of requirements based on service type. (T17 Sec 54310, 56013, 56712) Regional centers must respond to applications within 45 days of submission (T17 54320) The regional center shall provide a residential services orientation for all persons who wish to become vendorized to provide services orientation by prescribed topics no less than every six months (T17 56003)	Licensing focuses on operations plan, fire clearance, criminal records clearance (T22 80017-46) An 8 hour orientation required before submission of application (T22 Sec. 80001c) For day programs and residential facilities, the typical application timeline is: - A response is sent within 90 days that the application is received; provisional license will be granted if application complete; visit made within 12 months for license For health care facilities – ICF Intermediate Care Facilities: - A response is sent within 90 days that the application is received; a visit is made - 90 days after the visit the license may be granted Administrators must complete testing or coursework before the application can be processed; For health facilities a federally required qualified staff (QMRP) must be certified. (T22 Sec. 85064, CFR W 158 Sec 483.430)	Department of Rehabilitation initial certification prior to CARF accreditation (Title 9, California Code of Regulations [CCR], Division 3, Chapter 11, Section 7331)

Developmental Services System – Lanterman Act (WIC), California Regulations Title 17 <i>Vendor Ongoing Operations</i>	Community Care Licensing System and Health Care Licensing -- Health and Safety Code, California Regulation Title 22, Code of Federal Regulation	Other Entities For Employment Services -Department of Rehabilitation; For affordable housing - HUD -
Incident Reporting <i>Note: Slight variations in definitions and processes</i> Report to RCs w/in 24 hrs; written report in 48 hrs (T17 Sec 54327) RCs report to DDS w/in 48 hrs (T17 Sec 54327.1)	Vendor reports w/in 24 hrs; written report in 7 days (T22 Sec 80061) ICF Abuse Reporting Procedures [CFR 483.420(1)(6); (d)(2); (d)(4)]	Additional reporting for abuse (WIC 15600-01) Overlying requirements for mandated reporters (WIC 15630)
Monitoring - Quarterly visits to residence to review consumer funds and the facility (T17 Sec. 56047) - Annual monitoring visit by regional center (T 17 Sec. 56078) - ICF Quarterly Monitoring Requirements (T17 Sec 56103) - Allows for regional center review of programs as needed (WIC 4648.1)	- Unannounced annual visits (HSC 1534) - Visits in response to reported violations (HSC 1538) - Plan of correction follow-up (T22 Sec. 80053) - ICF survey – is often annual for 3 days (CFR 483)	Monitoring and Evaluation of Habilitation Program Services requiring CARF accreditation: Requires reviews 1-3 years depending on conditions of last accreditation. (T17 Sec 58850) For HUD funding, requires annual Management Occupancy Reviews and REAC Inspections every 1-3 yrs depending on the last score
Personnel Requirements – variety of requirements by service type Requirement References: T17 Sec. 56722, 56724-56754, 56752, 56037, 56038, 56040	Requirement References: Title 22 Sec. 80065 For ICFs: T 22 Sec.76913, 76891, 76878, 76905, 76863, 76872(k); HSC 1267.11	CARF Recruitment, retention, and qualifications (Section 1 Part I Standards 1-4)
Physical Plant Regional Center assignment of Facility Liaison for Quality Assurance Monitoring of the Facility (T17 Sec 56048)	Fire Marshall Annual inspections for “protection of residents”, protection of fire workers. Local offices make specific recommendations based on general requirements. Physical plant reviews are part of the annual visits (HSC 1534)	CARF Requirements for accessibility and architectural design (Section 1 Part 2 Standard 2A); HUD Inspection of all aspects of physical plant

<p>Developmental Services System – Lanterman Act (WIC), California Regulations Title 17</p>	<p>Community Care Licensing System and Health Care Licensing -- Health and Safety Code, California Regulation Title 22, Code of Federal Regulation</p>	<p>Other Entities For Employment Services -Department of Rehabilitation; For affordable housing - HUD -</p>
<p>Vendor Ongoing Operations, cont.</p>		
<p>Staff Training – variety of requirements by service type Requirement References: T17, Sec. 56003, 56033-38, 56723</p>	<p>Requirement References: T22 Sec. 80065 ICF Staff Training Requirements, Medication Training (T22 Sec. 76873(c)-76873(c)(19); Abuse Training [CFR 76876(f)(1)(a-k)]</p>	<p>CARF for Employment: Orientation requires training in 12 different topic areas</p>
<p>Program Plan Requirements T17 Sec. 4646 (all) Individual Program Plan/Individual Service Plan requirements for each consumer T17 Sec. 58812 Individual Habilitation Services Plan (IHSP) for work programs 29</p>	<p>Expectation that the Needs and Services Plan used for service planning (T22 80068.2, 85068.2) ICF Consumer Assessment Process [T22 76859(a)(1)-76859(c)(4)] ICF Consumer Assessment process [CFR 483.440(c)(4)(i)- 483.440 (c)(4)(v)]</p>	<p>Individual Plan for Employment required for employment services funded through Department of Rehabilitation (CCR Title 9)</p>
<p>Record Keeping – variety of requirements by service type Requirement References: T 17 Sec. 50603-6, 56059, 56710, 56728, 56730, 56732, 58831, 58811, 58822, 58831, 56714, 56059</p>	<p>Requirement References: T 22 Sec. 54326, 80070; CFR 483.410(c)(1)-483.410(c)(6)</p>	<p>CARF Consumer Records Review and cross references to other CARF Standards (Section 2 Part A Standard 11) HUD Review of administrative and client records for accuracy and conformity to federal laws, e.g. fair housing, admissions/discharges, medical procedures, health and safety/crisis procedures, etc.; Review of administrative and client records for accuracy and conformity to federal laws, e.g. fair housing, admissions/discharges, medical procedures, health and safety/crisis procedures, etc.</p>

Developmental Services System – Lanterman Act (WIC), California Regulations Title 17 <i>Vendor Ongoing Operations, cont.</i> Medication Review	Community Care Licensing System and Health Care Licensing -- Health and Safety Code, California Regulation Title 22, Code of Federal Regulation	Other Entities For Employment Services -Department of Rehabilitation; For affordable housing - HUD -
T17 Sec 4646 Individual Program Plan Review	T22 Sec. 80075 Requirements for records of medications, physicians and instructions for medications; Sec. 76878(b) 76876(a) ICF Registered Nurse authority requirements	CARF Section 2 Part C Standards 1-4

Key:

California Code of Regulations Title 17: Contains regulations promulgated under the Lanterman Act by the Department of Developmental Services affecting specific providers of services to people with developmental disabilities.

California Code of Regulations Title 22: Contains regulations promulgated by Department of Social Services which apply to all community care facilities regulated by the Community Care Licensing Division. Also contains regulations promulgated by the Department of Public Health which apply to Intermediate Health Care residential facilities.

Lanterman Act, California Welfare and Institutions Code: defines the rights of persons with developmental disabilities and establishes how services will be delivered.

CARF: A private national monitoring entity. Department of Rehabilitation requires CARF accreditation for vendors

HUD: Housing and Urban Development regulates funded affordable housing.

Code of Federal Regulation: codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

Rehabilitation Act of 1973: authorizes grants to States for vocational rehabilitation services, with special emphasis on services to those with the most severe handicaps

California Health and Safety Code: Contains the state code covering the subject areas of health and safety including the Departments of Social Services and Public Health.

ATTACHMENT

Reference Document

**Table of statutes & regulations affecting service provider agencies in the Department of Developmental Services (DDS) system
RECORD REVIEW**

Requirement Source	Sections	Information Required
Title 17 – Administrative	50603-6	Descriptions of Service Provider accountability and requirements
	56013, 56712	Program Design requirements
	56036	Training Plans required
	56059	Residential Services Records
	56047	Quarterly visits w consumer re IPP progress includes review of facility notes and reports on consumer and permits review of facility records and accounts re consumer cash and property.
	56048	Facility Liaison Quality Assurance (QA) Monitoring of the Facility
	56710	General requirements for non-residential programs
	56728	Program record requirements
	56730	Consumer record requirements
	56732	Requires conducting own effectiveness review which includes record reviews
	58615	Description of record requirements for Supported Living Services
	58831, 58811	Description of record requirements for Habilitation services
	58822	Description of record requirements for Work Activity Programs
	58831	Description of record requirements for Supported Employment
	56714	Description of record requirements for Day Programs
	56084	Description of record requirements for Family Home Agencies
Title 22 – Administrative	80022	Plan of Operation provides description of record requirements
CARF	Section 1 Part M Standards 1-4	Description of demographic information and business functions
HUD	Management Occupancy Review	Review of administrative and client records for accuracy and conformity to federal laws, e.g. fair housing, admissions/discharges, medical procedures, health and safety/crisis procedures, etc.
Title 17 – Consumer	56048	Facility Liaison Quality Assurance (QA) Monitoring of the Facility
	56059	Residential Services Records
Health and Safety Code	1268.6	ICF orientation requirement
Title 22	76857-76857(a)(11)(C)	ICF Program Plan Requirements
Title 22	76859(a)(1)-76859(c)(4)	ICF Consumer Assessment Process
Code Federal Regulation	483.440(c)(4)(i)- 483.440 (c)(4)(v)	ICF Consumer Assessment process
Code Federal Regulation	483.410(c)(1)-483.410(c)(6)	ICF: Description of Consumer Records

RECORD REVIEW (CONTINUED)

Title 17	54326	General Requirements for Vendors including records
Title 22 – Consumer	80070	Record requirements for personnel, Needs and Services Plan, Registry of Clients, Plan of Operation, Eviction Notice, Admissions Agreement, Safeguarding cash, etc.
CARF	Section 2 Part A Standard 11	Consumer Records Review and cross references to other CARF Standards
HUD	Management Occupancy Review	Review of administrative and client records for accuracy and conformity to federal laws, e.g. fair housing, admissions/discharges, medical procedures, health and safety/crisis procedures, etc.
Lanterman Law	4648.1 (a) & (b)	DDS & RCs involved in monitoring or auditing services provided to the regional centers' consumers by a service provider shall have access to the provider's grounds, buildings, and service program, and to all related records.

VISITS/REVIEW PROCESSES

Title 17	56047	Requires RC quarterly visits with consumer to review the consumer's progress towards achieving IPP objectives – at least two of these meetings must take place at the consumer's residence to review consumer funds and the facility
32	56078	Requires an annual monitoring visit by regional center
	50821-3	Requires review of any Behavior Plans that could cause pain, trauma or involve ECT
	58850	Monitoring and Evaluation of Habilitation Program Services
	56095	Monitoring and sanctions of Family Home Agencies
	56103	Intermediate Care Facility (ICF); ICF/Developmentally Disabled (ICF/DD); ICF/DD-Habilitative (ICF/DD-H); ICF/DD-Nursing (ICF/DD-N); Skilled Nursing Facility (SNF) Monitoring Requirements
	58680(a)(2)	Requires at least quarterly face-to-face meeting with each SLS consumer and, when appropriate, the consumer's personal advocate. The meeting shall occur in the consumer's home, except when the consumer withholds permission;
Health and Safety Codes	1526.5	Requires a visit for pre-licensing and post licensing (within 90 days)
	1534	Requires annual visit
	1538	Requires a visit within 10 days of a complaint
Title 22	80053	Requires a visit for follow up on Plan of Correction and for a case management visit as needed
CARF	58850	Monitoring and Evaluation of Habilitation Program Services requiring CARF accreditation. Requires reviews from every year to once in three years depending on conditions of last accreditation.
Lanterman Law	4648.1	Allows for regional center review of programs as needed - with or without prior notice. Also requires that not less than two of the required (Title 17 56047) four monitoring visits to consumers in licensed long-term health care or community care facility or family home agency home each year shall be unannounced.

VISITS/REVIEW PROCESSES (CONTINUED)

Lanterman Law	4648.1(i)	Effective July 1, 2009, a regional center shall not be required to perform triennial evaluations of community care facilities, as described in Sections 56046, 56049, 56050, 56051, and 56052 of Title 17 of the California Code of Regulations.
Lanterman Law	4684.70	ARFPSHN _ 962 Homes RC licensed registered nurse to make monthly visits
Lanterman Law	4689.1(e)(9)	Family Home Agency homes and Teaching Homes – monthly monitoring visits by the FH Agency social services staff
Lanterman Law	4743	Legislative Intent -- to the greatest extent possible, the staff of the regional center are assigned so as to minimize the number of persons responsible for programs provided in a given facility.
Code Federal Regulation	483.400-483.480	ICF Conditions of Participation
Code Federal Regulation	456.600	ICF Inspection of care: survey details
HUD	Management Occupancy Review and REAC Inspections	For any property with HUD funding, requires annual Management Occupancy Reviews and REAC Inspections (physical) from every year to once in three years depending on the last REAC score
Health and Safety Code	1266.12 (b)	ICF Initial Certification Survey
Code Federal Regulation	442.108-442.109	ICF Certification requirements

MEDICATION REVIEW

Title 17	56001	Regional centers use Title 22 as part of Quality Assurance Review regarding medication
Lanterman	56090(b)(5-6)	Medications reviewed annually by regional centers for Family Home Agencies
		Medications are always reviewed as part of the Individual Program Plan reviews
Title 22	4684.5-7	Medication review for "962" homes
CARF	80075	Requirements for records of medications, physicians and instructions for medications
	Section 2 Part C Standards 1-2	Medication monitoring
	Standard 3	Information to be provided
	Standard 4	Psychologist needs to review
Title 22	76878(b) 76876(a)	ICF RN authority Requirements

PHYSICAL PLANT

Title 17	56001-56060	Quality Assurance reviews based on requirements in Title 17 including physical plant
Title 22	80087	Requirements for Buildings and grounds
	80088	Requirements for fixtures and equipment
	80075	Requirements for first aid kits
CARF	Section 1 Part 2 Standard 2A	Requirements for accessibility and architectural design
	Section 2 Part D Standard 9	Requirements for tools and equipment
HUD	REAC	Inspection of all aspects of physical plant
Fire Marshall		Annual inspections for "protection of residents", protection of fire workers. Local offices make specific recommendations based on general requirements.
Health and Safety Code	1267.8, 1267.13	ICF Fire Safety Standard
NFPA Codes		ICF Required Fire System Maintenance
Code Federal Regulation	483.470(j)	ICF Standard Fire Protection
Code Federal Regulation	483.470(h)	ICF: Standard Emergency Plan and Procedure
Lanternman Law ω 4	4648.1 (a) & (b)	DDS & RCs involved in monitoring or auditing services provided to the regional centers' consumers by a service provider shall have access to the provider's grounds, buildings, and service program, and to all related records.

TRAINING

Title 17	56033	Direct Care Staff Competency-Based Training and Testing Requirements
	56726	Requirements for new staff training
	56036	Requirements for provider training plan
	56038	Direct Care Staff Qualifications and Continuing Education Requirements
	56037	Administrator Qualifications and Continuing Education
	58650-4	Training requirements for Supported Living Services
	56083	Training requirements for Family Home Agencies
	56774	Training requirements for infant programs
	56794	Training requirements for respite programs
	56003	Residential services orientation
Title 22	85064	Administrator certification requirements
	80065	Training requirements for on the job
CARF	Sec 1 Pt 1 Std 5	Orientation requires training in 12 different topic areas. Other standards mention training in specific areas.

TRAINING (Cont.)

Title 22	76873(c)- 76873(c)(19)	ICF Staff Training Requirements
Title 22	76876(f)(1)(a-k)	ICF Medication Training Program
Code of Federal Regulations	483.420(d)(1) 483.430(e)(1)	ICF Abuse Training
Lanternman Act	4695	Uniform statewide training program for directors or licensees of residential facilities to be offered by DDS w Community Colleges
Lanternman Act	4695.2	Requires direct care staff at CCFs to complete competency based training

PERSONNEL

Title 17	56722	Personnel requirements for non-residential services
	56724-56754	Personnel Functions and Qualifications
	56752	Personnel requirements
	56037	Administrator Qualifications and Continuing Education
	56038	Direct Care Staff Qualifications and Continuing Education Requirements
	56040	Consultant requirements
	56784(a)(8)	Personnel requirements for Family Home Agencies
	56790-2	Personnel requirements for In Home Respite providers
	54342	Requirements for Behavior Analyst
Title 22	80065	Personnel requirements
	85065	Audit requirements
	80064	General Requirements
	85064	Community Care Facilities requirements
CARF	Section 1 Part I Standards 1-4	Human Resources – Recruitment, retention, and qualifications
Health and Safety Code	1267.11	ICF Direct Care Staff Requirements
Title 22	76872	ICF ID Team Requirements
Title 22	76913,76891,76878,76905,76863,	ICF Professional staff/Consultant requirements
Federal Regulation	w348,w170,w173,w175,w176,w177	ICF Consultant requirements
Title 22	76872(k)	ICF Direct Care Staff requirements
H & S code	1267.11	ICF Direct Care Staff requirements

INCIDENT REPORTING

Title 17	54302, 54327	Requirements for reporting for Vendors
	54327.1	Requirements for regional centers reporting to the Department of Developmental Services
	54327.2	Responsibilities of Risk Management Committee regarding Incident Prevention
Title 22	80061	Reporting Special Incidents by Community Care Facilities
Welfare and Institutions Code	15600-01	Requirements for reporting suspected abuse of adults with developmental disabilities (dependent adults)
Penal Code	11164-11174.3	Requirements for reporting suspected abuse of children
CARF	Section 1 Part H Standards 7-8	Procedures for reporting incidents
Health and Safety code	1265.5	ICF Criminal Record oversight
Welfare and Institutions code	15630	Reporting Requirement for Mandated reporter
Code Federal Regulation	483.420(1)(6) 483.420(d)(2) 483.420(d)(4)	ICF Abuse Reporting Guidelines

COMPLAINT PROCESS

6

Title 17	56053	Procedures for Immediate Danger
	56054	Process for Substantial Inadequacies
	56056	Filing a Corrective Action Plan and follow up
	56057	Applying sanctions to service providers
	56104	Suspension of placements
	56105	Termination of Consumer placement
	54370	Termination of Vendorization
	56718	Termination of funding
	56061-7	Vendor appeals for residential
	54380-4	Vendor appeals
	56095	Monitoring and sanctions for Family Home Agencies
	56096	Appeals by Family Home Agencies
Title 22	80040	Denial of application and appeals; citation for noncompliance; revocation of license; probationary status; suspension and immediate revocation
	80054	Civil penalties

COMPLAINT PROCESS (Cont.)

Lanterman Law	4648.1	Providers shall be informed of their rights established in regulations adopted pursuant to Sections 4648.2, 4748, and 4780.5, to appeal actions taken by regional centers or the department as a result of their monitoring and auditing findings.
Lanterman Law	4648.2	DDS shall promulgate regulations with a process for service providers to appeal actions the department takes as a result of its auditing and monitoring activities.
CARF	Section 1 Part K Standards 4-5	Clients rights complaint to the organization; outlines non-accreditation status and accreditation that is less than the 3 year review period; policies and procedures established regarding public information, announced or unannounced visits; modification of accreditation; suspension; appeal
Code Federal Regulation	483.420(a)(3)	ICF Client Right to file complaints

Assembly Bill 420 (DICKINSON)

Disruption and Defiance: Reducing Grounds for Harsh Discipline

Bill Summary: AB 420 limits the use of subdivision (k) of Section 48900 which currently provides for the suspension or expulsion of any student who has "disrupted school activities or otherwise willfully defied the valid authority" of school personnel.

Instead, AB 420 encourages the use of other means of correction as the preferred remedy for acts of disruption and defiance. It further narrows the application of this section to only allow for suspension of high school students after multiple offenses and removes the ability to expel students for such acts.

Problem: Existing law provides that students can be suspended or recommended for expulsion from a school district for willful defiance, defined simply as: *disrupting school activities or otherwise willfully defying the valid authority of school staff*. Without regard to the severity, under this highly subjective category, students can be suspended or expelled from the entire district and denied valuable instructional time for any disruptive or defiant behavior including failing to turn in homework, not paying attention, or refusing to follow directions.

According to unofficial data obtained from the California Department of Education (CDE), it is estimated that "willful defiance" was identified as the most "severe" grounds for between 8-12% of all expulsions and 42% of all suspensions (five days or less) in 2010-11.

More than two decades of research has confirmed that out-of-school suspension and expulsion for such lower level conduct does not work. It does not improve student behavior and, in fact, can exacerbate the problem. In addition, students who are subjected to out-of-school discipline not only lose important instructional time, they are far more likely to drop out of school and enter the juvenile delinquency system, at great cost to the state, than students whose problem behaviors are addressed proactively with research-based supports and interventions in school and with parents.

Further, research reveals that students of color are disproportionately suspended and expelled for low level, subjective offenses like willful defiance, and this leads these students to have disproportionately worse educational outcomes than other student groups. In a 2012 data report issued by the U.S. Department of Education's Office for Civil Rights, African-American

students in California were more than 3 times as likely to be suspended as white students.

This Bill would limit the authority of a superintendent of a school district and principal by only allowing a pupil enrolled in any of grades 6 to 12, inclusive, to be suspended, but not expelled, for willful defiance on or after the 3rd offense in a school year, provided other means of correction were attempted before the recommendation to suspend. The bill also would state the intent of the Legislature to minimize the excessive use of willful defiance and encourage schools to instead prioritize the use of alternative means of correction.

This bill does not limit other Education Code provisions that are more clearly defined, including (EC 48900.4) the ability to suspend or expel students in grade 4 through 12 for harassment, threats, and intimidation that rise to the level of materially disrupting classroom, creating substantial disorder, and invading the rights of students and school personnel by creating a hostile education environment. In essence, the bill leaves in place more than 20 other reasons a student may be taken out of school, recommended for expulsion, or involuntarily transferred to another in-district school.

Support: Brothers, Sons, Selves (Co-Sponsor) * Children Now (Co-sponsor) * Fight Crime: Invest in Kids (Co-sponsor) * Public Counsel (Co-sponsor) * ACLU (Co-sponsor) * Children's Defense Fund * Community Asset Development Re-defining Education * Gay-Straight Alliance Network * Labor Community Strategy Center * Legal Services for Children * Restorative Schools Vision Project * The Gay and Lesbian Community Services Center of Orange County * Violence Prevention Coalition * Youth and Education Law Project * Youth Leadership Institute * Liberty Hill Foundation. *Cadre * Youth Law Center * Western Center on Law and Poverty * Mills Legal Clinic * Black Parallel School Board * Intercity Struggle * Khmer Girls in Action * Community Coalition * The Weingart East Los Angeles YMCA * Brotherhood Crusade * The Center of Orange County * Equality California * California Correctional Peace Officers Assn * California State PTA * Disability Rights Legal Center * East Bay Children's Law Offices * Mental Health Advocacy Services * Vallejo Unified School District * Disability Rights Education and Defense Fund * Peace Over

Assembly Bill 420 (DICKINSON)
Disruption and Defiance: Reducing Grounds for Harsh Discipline

Violence; *Californians for Justice; *Los Angeles Unified School District; *Lawyers Committee for Civil Rights; *MALDEF; *California Black Health Network; *The Children's Movement of California; *PICO; *National Lawyers Guild of Sacramento; *California Mental Health Directors Association; *Policy Link;

Opposition: *California School Boards Assn. (Oppose Unless Amended); *Small School Districts Association; *California Federation of Teachers (Oppose Unless Amended); *Association of California School Administrators (Oppose Unless Amended);

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AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 420

**Introduced by Assembly Member Dickinson
(Coauthor: Assembly Member John A. Pérez)
(Coauthor: Senator Leno)**

February 15, 2013

An act to amend Section 48900 of the Education Code, relating to pupil discipline.

LEGISLATIVE COUNSEL'S DIGEST

AB 420, as amended, Dickinson. Pupil discipline: suspensions: willful defiance.

Existing law prohibits a pupil from being suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed a specified act, including, among other acts, disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

This bill would limit that authority of a superintendent of a school district and a principal by only allowing a pupil enrolled in any of grades 6 to 12, inclusive, to be suspended, but not expelled, for willful defiance on or after the 3rd offense in a school year, provided other specified correction measures were attempted before the recommendation to suspend. The bill also would state the intent of the Legislature to

minimize the excessive use of willful defiance and encourage schools to instead prioritize and use alternative means of correction.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 48900 of the Education Code is amended
2 to read:
3 48900. A pupil shall not be suspended from school or
4 recommended for expulsion, unless the superintendent of the school
5 district or the principal of the school in which the pupil is enrolled
6 determines that the pupil has committed an act as defined pursuant
7 to any of subdivisions (a) to (r), inclusive:
8 (a) (1) Caused, attempted to cause, or threatened to cause
9 physical injury to another person.
10 (2) Willfully used force or violence upon the person of another,
11 except in self-defense.
12 (b) Possessed, sold, or otherwise furnished a firearm, knife,
13 explosive, or other dangerous object, unless, in the case of
14 possession of an object of this type, the pupil had obtained written
15 permission to possess the item from a certificated school employee,
16 which is concurred in by the principal or the designee of the
17 principal.
18 (c) Unlawfully possessed, used, sold, or otherwise furnished,
19 or been under the influence of, a controlled substance listed in
20 Chapter 2 (commencing with Section 11053) of Division 10 of the
21 Health and Safety Code, an alcoholic beverage, or an intoxicant
22 of any kind.
23 (d) Unlawfully offered, arranged, or negotiated to sell a
24 controlled substance listed in Chapter 2 (commencing with Section
25 11053) of Division 10 of the Health and Safety Code, an alcoholic
26 beverage, or an intoxicant of any kind, and either sold, delivered,
27 or otherwise furnished to a person another liquid, substance, or
28 material and represented the liquid, substance, or material as a
29 controlled substance, alcoholic beverage, or intoxicant.
30 (e) Committed or attempted to commit robbery or extortion.
31 (f) Caused or attempted to cause damage to school property or
32 private property.

1 (g) Stole or attempted to steal school property or private
2 property.

3 (h) Possessed or used tobacco, or products containing tobacco
4 or nicotine products, including, but not limited to, cigarettes, cigars,
5 miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew
6 packets, and betel. However, this section does not prohibit use or
7 possession by a pupil of his or her own prescription products.

8 (i) Committed an obscene act or engaged in habitual profanity
9 or vulgarity.

10 (j) Unlawfully possessed or unlawfully offered, arranged, or
11 negotiated to sell drug paraphernalia, as defined in Section 11014.5
12 of the Health and Safety Code.

13 (k) (1) A pupil enrolled in any of grades 6 to 12, inclusive,
14 disrupted school activities or otherwise willfully defied the valid
15 authority of supervisors, teachers, administrators, school officials,
16 or other school personnel engaged in the performance of their
17 duties.

18 (2) A pupil may only be suspended from school pursuant to this
19 subdivision on or after the third offense in a school year, provided
20 other means of correction, ~~as defined in~~ *pursuant to* Section
21 48900.5, were attempted before the recommendation to suspend.
22 *Pursuant to Section 48900.5, a school district may document other*
23 *means of correction but is not required to do so.*

24 (3) Notwithstanding any other law, this subdivision shall not
25 constitute grounds for a pupil to be recommended for expulsion.

26 (4) *This subdivision does not prevent a teacher from suspending*
27 *a pupil from class, pursuant to Section 48910, for conduct*
28 *described in paragraph (1).*

29 ~~(4)~~

30 (5) It is the intent of the Legislature to minimize the excessive
31 use of willful defiance as a reason to impose in-school and
32 off-campus removals that often lead to poor educational outcomes,
33 and to encourage schools to instead prioritize and use alternative
34 means of correction such as participation in a restorative justice
35 program, a positive behavior support system with tiered
36 interventions, or other forms of correction as specified in Section
37 48900.5, *in order to improve educational outcomes for children.*

38 (l) Knowingly received stolen school property or private
39 property.

1 (m) Possessed an imitation firearm. As used in this section,
2 “imitation firearm” means a replica of a firearm that is so
3 substantially similar in physical properties to an existing firearm
4 as to lead a reasonable person to conclude that the replica is a
5 firearm.

6 (n) Committed or attempted to commit a sexual assault as
7 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
8 Code or committed a sexual battery as defined in Section 243.4
9 of the Penal Code.

10 (o) Harassed, threatened, or intimidated a pupil who is a
11 complaining witness or a witness in a school disciplinary
12 proceeding for purposes of either preventing that pupil from being
13 a witness or retaliating against that pupil for being a witness, or
14 both.

15 (p) Unlawfully offered, arranged to sell, negotiated to sell, or
16 sold the prescription drug Soma.

17 (q) Engaged in, or attempted to engage in, hazing. For purposes
18 of this subdivision, “hazing” means a method of initiation or
19 preinitiation into a pupil organization or body, whether or not the
20 organization or body is officially recognized by an educational
21 institution, which is likely to cause serious bodily injury or personal
22 degradation or disgrace resulting in physical or mental harm to a
23 former, current, or prospective pupil. For purposes of this
24 subdivision, “hazing” does not include athletic events or
25 school-sanctioned events.

26 (r) Engaged in an act of bullying. For purposes of this
27 subdivision, the following terms have the following meanings:

28 (1) “Bullying” means any severe or pervasive physical or verbal
29 act or conduct, including communications made in writing or by
30 means of an electronic act, and including one or more acts
31 committed by a pupil or group of pupils as defined in Section
32 48900.2, 48900.3, or 48900.4, directed toward one or more pupils
33 that has or can be reasonably predicted to have the effect of one
34 or more of the following:

35 (A) Placing a reasonable pupil or pupils in fear of harm to that
36 pupil’s or those pupils’ person or property.

37 (B) Causing a reasonable pupil to experience a substantially
38 detrimental effect on his or her physical or mental health.

39 (C) Causing a reasonable pupil to experience substantial
40 interference with his or her academic performance.

1 (D) Causing a reasonable pupil to experience substantial
2 interference with his or her ability to participate in or benefit from
3 the services, activities, or privileges provided by a school.

4 (2) (A) "Electronic act" means the transmission, by means of
5 an electronic device, including, but not limited to, a telephone,
6 wireless telephone, or other wireless communication device,
7 computer, or pager, of a communication, including, but not limited
8 to, any of the following:

9 (i) A message, text, sound, or image.

10 (ii) A post on a social network Internet Web site including, but
11 not limited to:

12 (I) Posting to or creating a burn page. "Burn page" means an
13 Internet Web site created for the purpose of having one or more
14 of the effects listed in paragraph (1).

15 (II) Creating a credible impersonation of another actual pupil
16 for the purpose of having one or more of the effects listed in
17 paragraph (1). "Credible impersonation" means to knowingly and
18 without consent impersonate a pupil for the purpose of bullying
19 the pupil and such that another pupil would reasonably believe, or
20 has reasonably believed, that the pupil was or is the pupil who was
21 impersonated.

22 (III) Creating a false profile for the purpose of having one or
23 more of the effects listed in paragraph (1). "False profile" means
24 a profile of a fictitious pupil or a profile using the likeness or
25 attributes of an actual pupil other than the pupil who created the
26 false profile.

27 (B) Notwithstanding paragraph (1) and subparagraph (A), an
28 electronic act shall not constitute pervasive conduct solely on the
29 basis that it has been transmitted on the Internet or is currently
30 posted on the Internet.

31 (3) "Reasonable pupil" means a pupil, including, but not limited
32 to, an exceptional needs pupil, who exercises average care, skill,
33 and judgment in conduct for a person of his or her age, or for a
34 person of his or her age with his or her exceptional needs.

35 (s) A pupil shall not be suspended or expelled for any of the
36 acts enumerated in this section unless the act is related to a school
37 activity or school attendance occurring within a school under the
38 jurisdiction of the superintendent of the school district or principal
39 or occurring within any other school district. A pupil may be
40 suspended or expelled for acts that are enumerated in this section

1 and related to a school activity or school attendance that occur at
2 any time, including, but not limited to, any of the following:

3 (1) While on school grounds.

4 (2) While going to or coming from school.

5 (3) During the lunch period whether on or off the campus.

6 (4) During, or while going to or coming from, a
7 school-sponsored activity.

8 (t) A pupil who aids or abets, as defined in Section 31 of the
9 Penal Code, the infliction or attempted infliction of physical injury
10 to another person may be subject to suspension, but not expulsion,
11 pursuant to this section, except that a pupil who has been adjudged
12 by a juvenile court to have committed, as an aider and abettor, a
13 crime of physical violence in which the victim suffered great bodily
14 injury or serious bodily injury shall be subject to discipline pursuant
15 to subdivision (a).

16 (u) As used in this section, "school property" includes, but is
17 not limited to, electronic files and databases.

18 (v) For a pupil subject to discipline under this section, a
19 superintendent of the school district or principal may use his or
20 her discretion to provide alternatives to suspension or expulsion
21 that are age appropriate and designed to address and correct the
22 pupil's specific misbehavior as specified in Section 48900.5.

23 (w) It is the intent of the Legislature that alternatives to
24 suspension or expulsion be imposed against a pupil who is truant,
25 tardy, or otherwise absent from school activities.

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National Association of Councils on Developmental Disabilities

Washington Update

May 28, 2013

In this Issue:

- ✓ **Budget & Appropriations:** House Appropriations Allocations for FY 2014 Increase Defense Spending at Expense of Domestic Programs , including Affordable Care Act. Senate Allocations expected to Assume Sequester is replaced. Treasury Secretary Lew calls for Avoiding Debt Ceiling Brinkmanship. Federal Furloughs Due to Sequester. Appropriations for DD Councils.
- ✓ **Education:** NACDD signs on to CCD ESEA Principles. Achievement through Prevention Act and Mental Health in Schools Act provisions included in Bi-Partisan Mental Health Awareness and Improvement Act.
- ✓ **Health:** Bi-Partisan Mental Health Awareness & Improvement Act included in Anti-Gun Violence Bill. Hearings on: Premiums under the ACA; Medicare Cost-Sharing; Federal Resources for Serious Mental Illness. House Votes Again to Repeal the ACA.
- ✓ **Housing:** New *Priced Out* Report Documents Housing Affordability Crisis for People with Disabilities.
- ✓ **Appointments:** Tavenner Confirmed as CMS Administrator.

Budget & Appropriations

- ➔ **House Appropriation Allocations for FY 2014 Increase Defense Spending at Expense of Domestic Programs including the Affordable Care Act.** In the House, the full Appropriations Committee, over the objections of Democratic members, approved its plan for the 12 annual appropriations bills, known as 302(b) allocations for FY 2014. While its overall total complies with the \$967 billion sequestration spending cap, it increases defense spending while cutting domestic programs. The measure would cut \$4 billion, less than 1%, from current appropriation levels for Defense, Military Construction, Veterans Affairs, and Homeland Security bills. On the other hand, it would cut the Labor-HHS-Education allocation to \$121.8 billion, a cut of about \$35 billion or 22% below FY 2013 levels, which is also a \$26 billion cut from FY 2010 allocations. The biggest cuts would come from the Affordable Care Act and the 2010 overhaul of financial services.
- ➔ **Senate Allocations Anticipated to Assume Sequester is Replaced.** The Senate Appropriations Committee expects to release its 302(b) allocations in June. Chairwoman Mikulski (D-MD) has explained that the measure will meet the levels required by the Budget Control Act but will assume the sequester is replaced. Timing of mark-up of the Senate Labor-HHS-Education Subcommittee bill is uncertain.

- ➔ **Debt Ceiling Warning.** Treasury Secretary Jack Lew has warned that the US is likely to bump up against the debt ceiling after Labor Day. In a letter to House Speaker Boehner, Lew asked Congress to address the debt ceiling before then and not tie it to other legislation or risk dangerous brinkmanship of the past. It is likely that conservatives will push for further deficit reduction in order to approve an increased debt limit.
- ➔ **Federal furloughs due to the sequester** have been imposed on employees of the Internal Revenue Service, Environmental Protection Agency, the Office of Management and Budget and the Department of Housing and Urban Development.
- ➔ **Appropriations for DD Councils.** NACDD continues to call on members of Congress in support of appropriations for the DD Councils for FY 2014.

Education

- ➔ **NACDD Signs on to [CCD Principles for ESEA Reauthorization](#)** developed by the Education Task Force of the Consortium for Citizens with Disabilities (CCD). In anticipation of reauthorization of the Elementary and Secondary Education Act (IDEA), the principles address many issues including calling for all students to receive appropriate services in integrated settings, to be safe, and to be college or career ready upon graduation.

Health

- ➔ **Bi-Partisan Mental Health Awareness and Improvement Act included in the Anti-Gun Violence bill.** A bi-partisan bill sponsored by Senators Tom Harkin (D-IA) and Lamar Alexander (R-TN), the Chair and Ranking Member of the Senate Health, Education, Labor & Pensions Committee, was incorporated into S. 649, the Safe Communities, Safe Schools Act by a vote of 95-2. NACDD signed on to a letter of support that commends the Senate for including provisions of the Achievement through Prevention Act and the Mental Health in Schools Act. The legislation seeks to increase the use of positive behavioral interventions and supports and encourages schools to provide students with greatly needed mental health services that will help with learning, behavior and safety.
- ➔ **Hearing on Premiums under the Affordable Care Act:** The Oversight Subcommittee of the House Energy and Commerce Committee recently held a hearing on premiums under the ACA. Typical of recent hearings at the Committee, the debate among Members was sharply partisan with Republicans touting their [report](#), which found premiums will increase, and Democrats promoting their [report](#), which found that premiums will decrease.
- ➔ **Hearing on Medicare Cost-Sharing.** On May 21, the House Ways and Means Committee Health Subcommittee held a hearing on policies that would modify beneficiary cost-sharing in the Medicare program. At the hearing, Democrats and Republicans disagreed over whether increasing cost-sharing for beneficiaries is appropriate in order to shield providers from cuts. Full testimony from the hearing may be found [here](#).

- ➔ **Hearing on Federal Resources for Serious Mental Illness.** On May 22, the House Energy and Commerce Committee Oversight Subcommittee held a hearing on federal resources for serious mental illness. Full testimony from the hearing may be accessed [here](#). Testimony by Pamela S. Hyde, Administrator of the Substance Abuse and Mental Health Services Administration (SAMHSA) described the resources services it provides to people with serious mental illnesses. Other witnesses were highly critical of SAMHSA.
- ➔ **House Votes Again to Repeal the ACA.** On May 23, the House voted again to repeal the ACA, reportedly for the 37th time.

Housing

- ➔ **New *Priced Out* Report Documents Housing Affordability Crisis for People with Disabilities.**
The Technical Assistance Collaborative and the Housing Task Force of the Consortium for Citizens with Disabilities recently released its biennial report, this one, entitled [*Priced Out in 2012: The Housing Crisis for People with Disabilities*](#). The study compares average HUD fair market rents for one-bedroom and efficiency apartments with the average SSI benefit for a person with a disability living in the community. It finds that the national average rent for a modestly priced one-bedroom apartment is greater than the entire SSI payment of a person with a disability. The study provides data for all states and 2,572 housing markets in the US.

Appointments

- ➔ **Tavenner Confirmed as CMS Administrator**

By a vote of 91-7, the Senate has confirmed Marilyn Tavenner to head the Center for Medicare and Medicaid Services. Tavenner is the first CMS Administrator to be confirmed since Mark McClellan in 2004.

For more information, please contact phathaway@nacdd.org